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Alexis Barron  
Synnestvedt & Lechner LLP  
2600 Aramark Tower  
1101 Market Street  
Philadelphia, PA 19107-2950

In re Application of	:	
SAIDI, Zahir, et al.	:	
Application No.: 10/019,100	:	
PCT Application No.: PCT/US99/14351	:	DECISION ON
International Filing Date: 24 June 1999	:	
Priority Date: 26 June 1998	:	PETITION
Attorney Docket No.: P24,800-A USA	:	
For: AQUEOUS COMPOSITIONS	:	UNDER 37 CFR 1.137(b)
CONTAINING CORTICOSTEROIDS	:	
FOR NASAL AND PULMONARY	:	
DELIVERY	:	

This is a decision on applicants' "Second Renewed Petition Under 37 CFR §1.137(b)," filed in the United States Patent and Trademark Office on 25 November 2002.

**BACKGROUND**

On 24 June 1999, applicants filed an international application, PCT/US99/14351, which claimed a priority date of 24 June 1998. A demand for international preliminary examination was filed on 26 January 2000, prior to the expiration of nineteen months from the priority date. As such, the thirty month period for entering the national stage in the United States expired at midnight on 26 December 2000.

On 20 December 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive, payment of the petition fee and payment of the basic national fee.

On 26 April 2002, the Office mailed Decision on Petition dismissing applicants' petition without prejudice.

On 15 May 2002, applicants submitted "Renewed Petition Under 37 CFR §1.137(b)."

On 30 September 2002, the Office dismissed the petition without prejudice.

On 25 November 2002, applicants submitted "Second Renewed Petition Under 37 CFR §1.137(b)."

### DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (3) and (4) were previously satisfied. Item (2) includes the basic national fee. As mentioned in the first Decision on Petition, the balance of the basic national fee will be charged to the deposit account, as authorized by the petition.

As to item (1), applicants explain the time line of events surrounding the abandonment and indicate that at the time of the abandonment and at all times subsequent, Elan Corporation was responsible for the prosecution of the application.

Applicants state "the entire delay which is associated with the filing of the documents of (A) above [the transmittal letter and copies of the documents referred to therein] and which involves a term that extends from the due date for filing the documents until the filing of the present Petition was unintentional." This is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicants must notify the Office immediately.

### CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including preparation of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.



Erin M. Pender  
Attorney Advisor  
PCT Legal Administration

Telephone: 703-305-0455  
Facsimile: 703-308-6459